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**ARTICLE 17 TO SEE IF THE TOWN WILL VOTE TO AMEND THE ZONING BY-LAWS BY ADDING A NEW SECTION 12.5, ENTITLED INDEPENDENT LIVING OVERLAY DISTRICT, AS FOLLOWS:**

**12.5 INDEPENDENT LIVING OVERLAY DISTRICT (ILOD)**

**12.5.1 PURPOSE.** The purpose of the Independent Living Overlay District (ILOD) is to provide a mechanism for the approval of:

1. independent living facilities (ILF) that offer housing and other services to persons over the age of fifty five, subject to the Age Restriction definition in 12.5.2 below;
2. the development of ILF in a manner that conserves environmental features, woodlands, wetlands, open space, areas of scenic beauty, views and vistas as well as encouraging the renovation and rehabilitation of older, existing buildings; and
3. the development of ILF in a manner harmonious with the surrounding land uses while protecting natural resources and open space.

**12.5.2 DEFINITIONS.** Within this Section, the following terms shall have the following meanings:

*Accessory Structures and Uses-* Structures and uses accessory to the ILF may include, but are not limited to, recreational, personal services, hotel rooms, places of assembly, religious, educational, and cultural places, and the like. Such accessory uses and structures shall be designed for the primary use of the residents and staff of the ILF. Such accessory uses may not be designed for or used as a general business by the general public. Such accessory uses shall have no exterior advertising display.

*Affordable Dwelling Unit* – A dwelling unit affordable to persons or families in the area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development (DHCD), earning more than 50% but less than 80% of the median income, adjusted for household size.

*Age Restriction* - The ILF shall be subject to an Age-Restriction as follows: eighty percent (80%) of the occupied units shall be occupied by at least one person who is age fifty-five (55) or older (the “Qualified Occupant”); provided, however, that in the event of the death of the Qualified Occupant(s) of a unit or other involuntary transfer of a unit, a one year exemption shall be allowed to allow for the rental of the unit to another Qualified Occupant(s) (the “Age Restriction”) so long as the provisions of the Housing Laws (defined below) are not violated by such occupancy. The Age Restriction is intended to be consistent with, and is set forth in order to comply with the Fair Housing Act, 42 USC section 3607(b), as amended, the regulations

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promulgated thereunder, 24 CFR Subtitle B, Ch. 1, section 100.300 et seq. and G.L. c. 151B, section 4 (the "Housing Laws"). This condition shall be incorporated into the deed riders and association organizational documents. This restriction and any proposed deed shall be subject to review and approval by the Planning Board and approved as to form by Town Counsel prior to the issuance of a certificate of occupancy for any dwelling unit.

*Applicant* - The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit hereunder. The Applicant must own, or be the beneficial owner of, all the land included in the proposed site, or have authority from the owner(s) to act for him/her/it/them or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.

*Bedroom* - A separate room intended for, or which customarily could be used for, sleeping.

*Dwelling Unit* - A residence, including studio units. Each residence shall contain a living area, bathroom and, except in studio units, one or more bedrooms, and shall contain a kitchen area or combination kitchen/living area.

*Independent Living Complex (ILC)* - A structure or structures with a mix of dwelling units, common areas and accessory uses.

*Independent Living Facility (ILF)* – An Independent Living Complex with or without ancillary buildings, subject to an Age Restriction. .

*Regulations* - The rules and regulations of the Planning Board relative to subdivisions, special permits and site plans.

*Wetlands* - Resource areas subject to the provisions of G.L. c. 131, ss. 40 and 40A, and the Wenham Water Resources By-Law, Chapter 28 of the General By-Laws.

**12.5.3 OVERLAY DISTRICT.** The ILOD shall be construed as an overlay district. Within the ILOD, the requirements of the underlying zoning district(s) shall remain in full force and effect until a special permit for an ILF has been granted, except where the requirements herein are more restrictive or provide for uses or structures not otherwise available in the underlying district; in such cases, the requirements herein shall supersede the underlying zoning regulations.

**12.5.4 USE REGULATIONS.** An ILF may be constructed, subject to the requirements set forth herein, upon the issuance of a special permit by the Planning Board. No other use or structures shall be permitted, except as specifically provided herein:

1. An ILF consisting of any combination of at least (one) Independent Living Complex and ancillary buildings.
2. Accessory structures and uses.

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**12.5.5 ADMINISTRATION.** The Planning Board shall serve as the special permit granting authority pursuant to this Section. The Planning Board may waive the submittal of technical information or documents otherwise required hereunder where the Applicant demonstrates that, due to the simplicity of the proposal, such information is not necessary for or applicable to the Planning Board's decision pursuant to this section. An application for a special permit shall be governed by the following rules.

**12.5.6 APPLICATION.** An application for a special permit shall be submitted to the Planning Board on forms furnished by the Planning Board. Each such application shall be accompanied, by a filing fee of \$1,000 and a technical review fee pursuant to G.L. c. 44, s. 53G. The application shall be accompanied by all of the information required for site plan review, as set forth in Sections 13.5.4 and 13.5.5 of the Zoning By-Law.

**12.5.7 STANDARDS.** In order to be eligible for consideration for a special permit pursuant to this Section, the proposed development shall meet all of the following standards:

1. **Parcel Size and Frontage.** Minimum parcel size for an ILF shall be ten (10) acres, with land under water being excluded from this computation. Minimum frontage for an ILF shall be 200 feet.
2. **Buffer.** A buffer area of 50 feet shall be provided at the perimeter of the property where it abuts existing residentially occupied properties, except for driveways necessary for access and egress to and from the site, or for storm water retention facilities. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer requirement (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation; or (ii) where the land abutting the site is held for conservation or recreation purposes; or (iii) the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.
3. **Removal and Replacement of Vegetation.** Within the site, no clear cutting shall be permitted, except incidental to construction of buildings, roads, trails and parking areas, as approved by the Planning Board.
4. **Roadways.** The principal roadway(s) serving the site shall be designed to conform with the standards of the Town where the roadway is or may be ultimately intended for dedication and acceptance by the Town. Private ways shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the Applicant.

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5. **Parking.** The Applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. Such parking may be underground, in a structure, or on the surface. The minimum number of parking spaces provided on the site shall be 1.25 per dwelling unit in an ILF. The Planning Board may require, when parking is less than 1.5 spaces per dwelling unit, that a reserve area be set aside for additional parking if needed. One (1) parking space shall also be provided for every employee during the largest shift. All parking areas shall be screened from view by a landscaped border at least 50 feet in width from adjacent residentially occupied premises located outside the ILF, including public ways.

6. **Loading.** Screening and landscaping shall be provided to block all views of loading areas (except those specifically designated for emergency vehicles) from the public right-of-way and adjacent properties.

7. **Stormwater Management.** The stormwater management system shall be designed in accordance with Massachusetts Department of Environmental Protection Stormwater Management Regulations.

8. **Utilities.** All electric, gas, telephone, and cable lines shall be placed underground, except upon a demonstration of exceptional circumstances such as rock, ledge and wetlands.

9. **Sidewalks and Paths.** Sidewalks shall be required to connect parking areas and buildings to nearby buildings. Paths for the use of residents shall be attractively designed with proper regard for convenience, separation of vehicular, bicycle and pedestrian traffic, adequate connectivity, completeness of access to the various amenities and facilities on the site and to connect to pathways on adjacent sites or public ways.

10. **Emergency Systems.** The ILF shall have an integrated emergency call, telephone and other communications system to provide monitoring for its residents. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Fire Department for the emergency evacuation of the residents with emphasis on ensuring the safety of residents with physical impairments.

11. **Lighting.** All exterior lighting shall not produce lighting so as to unreasonably interfere with the use and enjoyment of property within the Town. Lighting practices and systems shall reduce light pollution, light trespass and glare in order to preserve and enhance the natural, scenic, and aesthetic qualities of the Town; conserve energy and decrease lighting cost without decreasing night time safety, security, and productivity; and preserve the night sky as a natural resource to enhance nighttime enjoyment of property within the Town.

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12. Emergency Access. When the ILF has a single access road with a length greater than 1000 feet, a second means of access adequate for emergency vehicles, as determined by the Fire Department, and approved by the Planning Board shall be provided,

13. Further Subdivision. After a special permit is issued for an ILF, no further subdivision of land shall be permitted.

14. Density. The aggregate number of dwelling units shall not exceed 5 times the total number of acres in the ILOD.

15. Building Height. An Independent Living Complex shall have a maximum building height of four stories. Ancillary buildings shall have a maximum height of three stories. Underground or partially underground parking and or building service areas shall not be considered a story. In addition, where a building is designed to accommodate variations in grade, each building segment shall be considered separately in determining the maximum number of stories.

**12.5.8 SUSTAINABLE DESIGN.** The Applicant shall present to the Planning Board a matrix indicating the sustainable design components that shall be achievable as part of the Project. The Applicant shall complete all of the items indicated on the matrix. Upon completion of the Project, the Applicant shall provide a report to the Planning Board from its design, engineering and construction team summarizing how the items were accomplished., and such report will replace any requirement that the Applicant obtain a LEED Certification for the Project.

**12.5.9 INCENTIVES FOR CONVERSION OF STRUCTURES.** Applicants are encouraged to propose the appropriate reuse of land and buildings that are no longer needed or suitable for their original use, where such conversion is compatible with the character of the neighborhood. In the event of such conversion to an Independent Living Complex, the number of stories of any additions or extensions shall not exceed the number of stories of the existing structure on the premises.

**12.5.10 AFFORDABLE DWELLING UNITS.**

1. Not less than 10% of the number of dwelling units in the ILF shall be Affordable Dwelling Units provided on-site.

2. In the alternative, the Applicant, or a related entity such as a single purpose limited liability company under the control or direction of the Applicant, may provide off-site homeownership or rental Affordable Dwelling Units equal to 15% of the total number of on-site units.

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3. In the alternative, the Applicant, or a related entity such as a single purpose limited liability company under the control or direction of the Applicant, may provide off-site rental housing equal to 15% of the total number of on-site units provided that 100% of such units shall be counted on the DHCD's Subsidized Housing Inventory.
4. If the Applicant proposes to situate required Affordable Dwelling Units off-site, the Applicant or such related entity shall demonstrate control of such off-site location(s).
5. The Planning Board shall require specific deadlines for the provision of the required off-site units and the land on which such units are located.
6. If the Applicant elects to provide Affordable Dwelling Units both on and off the site, the Planning Board shall establish the total number of such Affordable Dwelling Units in the grant of any special permit.
7. The Affordable Dwelling Units shall meet the standards of the DHCD as to size and location. The Applicant shall cooperate with the Town to ensure that all Affordable Dwelling Units are counted on DHCD's Subsidized Housing Inventory.

**12.5.11 ACTION BY THE PLANNING BOARD.** The Planning Board may grant a special permit for an ILF where it makes the following findings, in addition to those set forth in Section 13.4.3 of this By-law. Except as set forth in Section 12.5.6, above, Section 13.5, governing site plan review, shall not apply in the ILOD.

1. The proposed facility complies with the requirements of this Section; provided, however, the Planning Board may waive a substantive requirement (except the Affordable Dwelling Unit requirement), when the Board determines that the waiver will not result in substantial detriment to the district or the Town.
2. The proposed facility does not cause substantial detriment to the neighborhood after considering the following potential consequences:
  - a. noise, during the construction and operational phases;
  - b. light pollution;
  - d. visual impact caused by the character and scale of the proposed structure(s).

**12.5.12 LAPSE.** Notwithstanding the provisions of Section 13.4.7, a special permit for an ILF shall lapse after 24 months if substantial use or construction as granted under a permit have not

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commenced without good cause. This time limit excludes the time required to pursue or await the determination of an appeal.

**OR WHAT IT WILL DO IN RELATION THERETO.**

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